

Amendments to the Drawings:

The attached sheet of drawings includes changes to FIG. 10B and new drawing FIG. 12. This sheet, which includes FIGS. 10B, 11, and 12, replaces the original sheet including FIGS. 10B and 11. The change to FIG. 10B merely adds an element number, and FIG. 12 depicts features already shown in as-filed FIGS. 8B and 10A on a sleeve already shown in as-filed FIG. 9A. The combination thereof was described in as-filed claims 38 and 39. No new matter has been added.

REMARKS

The Office Action mailed October 18, 2006, has been received and reviewed. Claims 1 through 75 are currently pending in the application. Claims 1 through 40, 42, 44, 45, 48 through 50, 52 and 53 stand rejected. Claims 41, 43, 46, 47 and 51 have been objected to as being dependent upon rejected base claims, but the indication of allowable subject matter in such claims is noted with appreciation. Claims 54 through 75 are allowed and such allowance is noted with appreciation. Applicants have amended claims 1, 15, 20, 27, 29, 30, 40, and 48, cancelled claims 19, 43, 46, 47, 51, and respectfully request reconsideration of the application as amended herein.

35 U.S.C. § 112 Claim Rejections

Claims 19, 20, 32, 33, 38 and 39 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 19 has been cancelled, and claim 15 has been amended to include all of the limitations of claim 19. Claim 15 recites in part, a container, comprising . . . at least one stabilizing feature comprising an inwardly oriented radial protrusion. This feature is shown in as-filed FIG 10B, and has now been identified as element 563. Claim 20 recites in part, “the at least one stabilizing feature is sized and configured to engage at least a portion of a rolled rim formed on a lower longitudinal end of the sleeve structure.” As shown in FIG. 10C, the stabilizing feature 560 is configured to engage the rolled rim 592.

Claim 32 recites in part, “the at least one stabilizing feature comprises an inwardly oriented radial protrusion.” Element 524 of FIG. 9B is described in paragraph [0103] as a radial protrusion. FIG. 9B clearly shows the radial protrusion 524 to be inwardly oriented.

Claim 33 recites in part, “the at least one stabilizing feature comprises an upwardly oriented arcuate recess sized and configured to conformably engage at least a portion of a rolled rim of the another sleeve structure.” New FIG. 12 clearly depicts such a sleeve structure. An

upwardly oriented arcuate recess 444 of a lid 440 is described in as-filed paragraph [0099] and depicted in FIG. 8B.

Claim 38 recites in part, “at least one stabilizing feature comprises two or more circumferentially separated stabilizing features.” Claim 39 recites in part, “the two or more stabilizing features each comprise an upwardly oriented arcuate recess; and each upwardly oriented arcuate recess is sized and configured to engage at least a portion of a rolled rim formed on a lower longitudinal end of the another sleeve structure.” New FIG. 12 clearly depicts such a structure. An upwardly oriented arcuate recess 444 of a lid 440 is described in as-filed paragraph [0099] and depicted in FIG. 8B.

Claims 27-39 also stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Appropriate correction has been made to independent claim 27.

35 U.S.C. § 102(b) and § 102(e) Anticipation Rejections

Anticipation Rejection Based on U.S. Patent No. 6,419,112 to Bruce et al.

Claims 1 through 4, 6, 7 and 9 through 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bruce et al. (U.S. Patent No. 6,419,112). Applicants respectfully traverse this rejection, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Bruce describes a spill resistant lid with a container bottom platform 35 and a container bottom receiving groove 36 configured and sized to receive and hold cups anticipated to be stacked on the lid. (Col. 5, lines 17-27)

Claim 1, as amended herein, recites a lid comprising: a radially extending body; wherein the lid is sized and configured to engage at least a portion of a container having a selected size

and shape to substantially close an opening thereof; at least one stabilizing feature sized and configured to engage at least a portion of a sleeve structure having a selected size and shape which is associated and *assembled concentrically* with another container having a selected size and shape, upon the another container being positioned generally longitudinally above the lid. (emphasis added)

Bruce fails to describe, either expressly or inherently, a lid having a stabilizing feature sized and configured to engage at least a portion of a sleeve structure which is associated and *assembled concentrically* with a container positioned generally longitudinally above the lid. Rather, the lid of Bruce includes a container bottom platform 35 and a container bottom receiving groove 36 configured and sized to receive and hold cups to be stacked on the lid *in an off-center location*. (see FIG. 5). Applicants note that Bruce does not disclose a sleeve structure for a cup. Even assuming, *arguendo*, that a sleeve structure is assembled concentrically with the cup of Bruce, the lid of Bruce does not include a stabilizing feature sized and configured to engage at least a portion of such a sleeve structure. The space between the third cylindrical wall 31 and the top connecting wall 22 is not concentric with the container bottom platform 35 and container bottom receiving groove 36 for receiving a stacked cup.

Therefore, it is respectfully submitted that the reference fails to describe, either expressly or inherently, each and every element of claim 1. Accordingly, it is respectfully submitted that the rejection to claim 1 should be withdrawn.

Claims 2-4, 6, 7, and 9-11 are each allowable, among other reasons, as depending from claim 1, which should be allowed.

Anticipation Rejection Based on U.S. Patent No. 6,250,494 to Diamond

Claims 1 and 5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Diamond (U.S. Patent No. 6,250,494). Applicants respectfully traverse this rejection, as hereinafter set forth.

Diamond describes a paint can 2 which is configured to be stacked with another paint can. The side wall 4 of the paint can 2 is essentially a constant diameter cylinder. (Col. 2, lines 64-65)

Claim 1, as amended herein, recites, a “lid comprising: a radially extending body; wherein the lid is sized and configured to engage at least a portion of a container having a selected size and shape to substantially close an opening thereof; at least one stabilizing feature sized and configured to engage at least a portion of a sleeve structure having a selected size and shape which is associated and assembled concentrically with another container having a selected size and shape, upon the another container being positioned generally longitudinally above the lid.”

Diamond does not describe a lid having a stabilizing feature sized and configured to engage at least a portion of a sleeve structure which is associated and assembled concentrically with another container, upon the another container being positioned generally longitudinally above the lid. Rather, the lid of Diamond is positioned on a paint can 2 which is configured to be stacked with another paint can. The side wall 4 of the paint can 2 is essentially a constant diameter cylinder. (Col. 2, lines 64-65) The rim 66 of the lid mates with a rim section of the container 2. The stacked container, with an essentially constant diameter cylinder, fits over the lid. Any concentrically assembled sleeve on the container would not engage with the lid.

Therefore, it is respectfully submitted that the reference fails to describe each and every element of claim 1. Accordingly, it is respectfully submitted that the rejection to claim 1 should be withdrawn.

Claim 5 is allowable, among other reasons, as depending from claim 1, which should be allowed.

Anticipation Rejection Based on U.S. Patent Publication No. 2002/0020708 to Weiss et al.

Claims 1, 13 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Weiss et al. (U.S. Patent Publication No. 2002/0020708). Applicants respectfully traverse this rejection, as hereinafter set forth.

Weiss describes a lid for a container including a closure surface, a circumferential rim extending about a periphery of the closure surface with the rim including an outer side wall, an inner side wall, and a transition wall interconnecting the two.

Claim 1 recites in part, a lid comprising “at least one stabilizing feature sized and

configured to *engage* at least a portion of a sleeve structure” which is associated and assembled concentrically with another container, upon the another container being positioned generally longitudinally above the lid. (emphasis added)

Weiss fails to describe a lid having a stabilizing feature sized and configured to *engage* at least a portion of a sleeve structure. Rather, the lid of Weiss includes a circumferential rim extending about a periphery of the closure surface with the rim including an outer side wall, an inner side wall, and a transition wall interconnecting the two. The rim region of the lid accommodates the brim of a container, but is positioned in a stationary manner thereon. Weiss does not describe a sleeve structure, and does not describe any portion of the lid configured to *engage* with anything stacked thereon.

Therefore, it is respectfully submitted that the reference fails to describe each and every element of claim 1. Accordingly, it is respectfully submitted that the rejection to claim 1 should be withdrawn.

Claims 13 and 14 are each allowable, among other reasons, as depending from claim 1, which should be allowed.

Anticipation Rejection Based on U.S. Patent No. 3,257,025 to Jolly

Claims 27 through 31, 34 through 37, 48 through 50 and 52 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Jolly (U.S. Patent No. 3,257,025). Applicants respectfully traverse this rejection, as hereinafter set forth.

Jolly describes an insulating tumbler for a beer or soft drink can. The tumbler 20 includes a flared upper portion 30 which defines a pouring or drinking lip. (Col. 2, lines 67-72)

Claim 27, as amended herein, recites a sleeve structure, comprising: a side wall sized and configured to encompass at least a portion of a first container having a selected size and shape and to form a space between the first container assembled therewith and the side wall of the sleeve structure; at least one stabilizing feature sized and configured to bias against and engage at least a portion of another, like sleeve structure associated and assembled with a second container having a selected size and shape, following the second container being positioned generally longitudinally above the first container, with a lid positioned therebetween.

Jolly does not describe a sleeve structure having a stabilizing feature sized and configured to bias against and engage at least a portion of another sleeve structure associated with a second container. Rather, the insulating tumbler of Jolly includes an outwardly flaring upper portion 30 which defines a pouring or drinking lip. (FIG. 2, Col. 2, lines 67-72) The outwardly flaring drinking lip is not configured to bias against and engage another insulating tumbler positioned thereabove.

Therefore, it is respectfully submitted that the references fail to teach each and every element of independent claim 27. Accordingly, it is respectfully submitted that the rejection to independent claim 27 should be withdrawn.

Claims 28-31 and 34-37 are each allowable, among other reasons, as depending from claim 27, which should be allowed.

Claim 37 is additionally allowable because Jolly fails to disclose a stabilizing feature which is configured to be removed from the sleeve structure.

Claim 51 stands objected to as being dependent upon a rejected base claim, but is indicated to contain allowable subject matter and would be allowable if placed in appropriate independent form. Claim 48 has been amended to include all of the limitations of claim 51. Consequently, it is believed that independent claim 48, as amended herein, is in condition for allowance.

Claims 49-50 and 52 are each allowable, among other reasons, as depending from claim 48, which should be allowed.

Anticipation Rejection Based on U.S. Design Patent No. D426,367 to Gale

Claims 40, 42, 44 and 45 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gale (U.S. Design Patent No. D426,367). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 43 stands objected to as being dependent upon a rejected base claim, but is indicated to contain allowable subject matter and would be allowable if placed in appropriate independent form. Claim 40 has been amended to include all of the limitations of claim 43. Consequently, it is believed that independent claim 40, as amended herein, is in condition for

allowance.

Claims 42, 44 and 45 are each allowable, among other reasons, as depending from claim 43, which should be allowed.

Anticipation Rejection Based on U.S. Patent No. 6,883,677 to Goeking et al.

Claims 15 through 18, 21 through 25 and 26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Goeking et al. (U.S. Patent No. 6,883,677). Applicants respectfully traverse this rejection, as hereinafter set forth.

Goeking describes a disposable drinking cup having a cup brim including a brim curl having a lip configuration and a flare configuration. When a lid is snap-fittingly associated with the cup, the brim curl is in the lip configuration. When the lid is disassociated from the cup, the internal rim surface forcibly configures the brim curl into the flare configuration. In the lip configuration, the brim curl arcuately and concavely extends away from the cup opening to form a brim lip. In the flare configuration, the brim curl arcuately and convexly extends away from the cup opening to form a brim flare. (Col. 2, lines 1-18)

Claim 15, as amended herein, recites a container, comprising: a lower wall; a side wall extending from the lower wall and forming an opening; and at least one stabilizing feature comprising an inwardly oriented radial protrusion sized and configured to engage at least a portion of a sleeve structure associated and assembled with another container positioned longitudinally above the container.

Goeking fails to describe a container having at least one stabilizing feature comprising an inwardly oriented radial protrusion. Rather, Goeking described a brim curl of a cup, which either arcuately and concavely extends away from the cup opening, or arcuately and convexly extends away from the cup opening.

Therefore, it is respectfully submitted that Goeking fails to describe, either expressly or inherently, each and every element of claim 15. Accordingly, it is respectfully submitted that the rejection to claim 15 should be withdrawn.

Claims 16 through 18, 21 through 25 and 26 are each allowable, among other reasons, as depending from claim 15, which should be allowed.

Anticipation Rejection Based on U.S. Patent Publication No. 2004/0084346 to Candy

Claims 27 and 29 through 31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Candy (U.S. Patent Publication No. 2004/0084346). Applicants respectfully traverse this rejection, as hereinafter set forth.

Candy describes a nestably stackable container with an outer protective sleeve and a supporting grip. The sleeve 4 does not extend to the base 2 of the cup 1. (See FIG. 2)

Claim 27, as amended herein, recites a sleeve structure, comprising: a side wall sized and configured to encompass at least a portion of a first container having a selected size and shape and to form a space between the first container assembled therewith and the side wall of the sleeve structure; at least one stabilizing feature sized and configured to bias against and engage at least a portion of another, like sleeve structure associated and assembled with a second container having a selected size and shape, following the second container being positioned generally longitudinally above the first container, with a lid positioned therebetween.

Candy does not describe a sleeve structure having a stabilizing feature sized and configured to bias against and engage at least a portion of another, like sleeve structure associated and assembled with a second container having a selected size and shape, following the second container being positioned generally longitudinally above the first container, with a lid positioned therebetween. Rather, the container of Candy is nestably stackable. The sleeve 4 does not extend to the base 2 of the cup 1. Thus, if the containers of Candy were stacked with lids therebetween, the sleeve of one container would not contact the sleeve of the container above or below.

Therefore, it is respectfully submitted that the reference fails to describe each and every element of claim 27. Accordingly, it is respectfully submitted that the rejection to claim 27 should be withdrawn.

Claims 29-31 are each allowable, among other reasons, as depending from claim 27, which should be allowed.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on U.S. Patent No. 6,419,112 to Bruce et al. in view of U.S. Patent

No. 4,978,024 to Newman et al.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruce et al. (U.S. Patent No. 6,419,112), in view of Newman et al. (U.S. Patent No. 4,978,024). Applicants respectfully traverse this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

The nonobviousness of independent claim 1 precludes a rejection of claim 8 which depends therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claim 8 which depends from allowable independent claim 1.

Obviousness Rejection Based on U.S. Patent No. 6,419,112 to Bruce et al.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruce et al. (U.S. Patent No. 6,419,112). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claims 12 is allowable, among other reasons, as depending from claim 1, which should be allowed.

Obviousness Rejection Based on U.S. Patent No. 6,883,677 to Goeking et al.

Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Goeking et al. (U.S. Patent No. 6,883,677). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 24 is allowable, among other reasons, as depending from claim 15, which should be allowed.

Obviousness Rejection Based on U.S. Patent No. 3,257,025 to Jolly

Claim 37 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jolly (U.S. Patent No. 3,257,025). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 37 is allowable, among other reasons, as depending from claim 27, which should be allowed.

Obviousness Rejection Based on U.S. Patent No. 3,257,025 to Jolly in view of U.S. Patent No. 6,364,151 to Gale

Claim 53 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jolly (U.S. Patent No. 3,257,025) in view of Gale (U.S. Patent No. 6,364,151). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claims 53 are each allowable, among other reasons, as depending from claim 48, which should be allowed.

Objections to Claims 41, 43, 46, 47 and 51/Allowable Subject Matter

Claims 41, 43, 46, 47 and 51 stand objected to as being dependent upon rejected base claims, but are indicated to contain allowable subject matter and would be allowable if placed in appropriate independent form.

Claim 40 has been amended to include all of the limitations of claim 43. Consequently, it is believed that claim 40, as amended herein, is in condition for allowance. Claim 48 has been amended to include all of the limitations of claim 51. Consequently, it is believed that claim 48, as amended herein, is in condition for allowance.


ENTRY OF AMENDMENTS

The amendments to claims 1, 15, 20, 27, 29, 30, 40, and 48 above should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application.

CONCLUSION

Claims 1-18, 20-42, 44, 45, 48-50, and 52-75 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,



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JAW/dn:slm

Attachment: Replacement Sheets
Annotated Sheet Showing Changes

Document in ProLaw

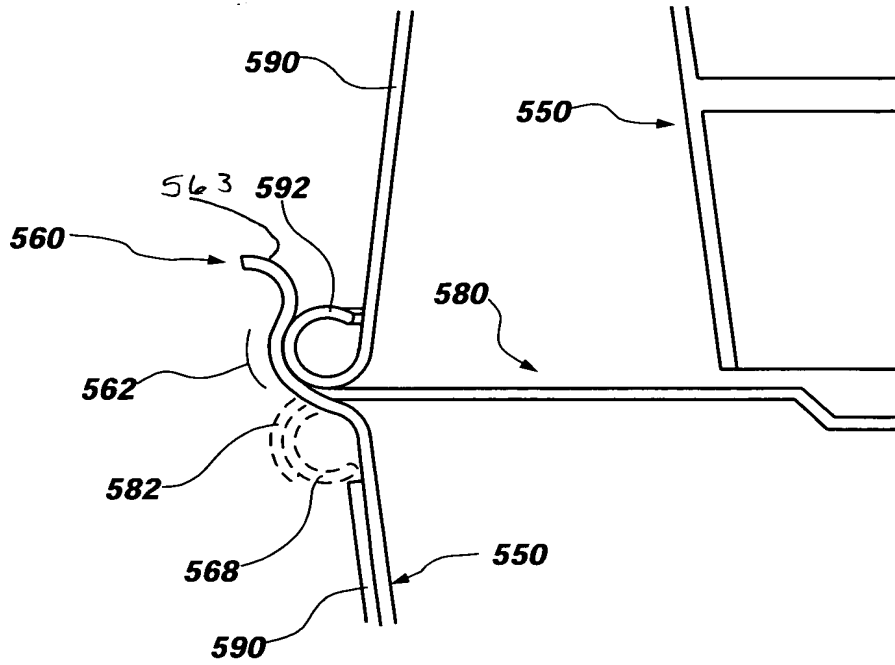


FIG. 10B

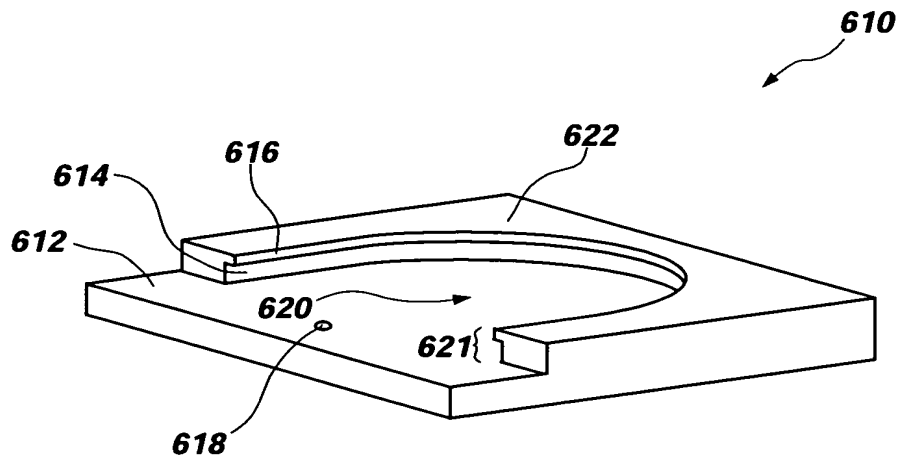


FIG. 11